IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

PETITION NO.13 OF 2003

Re: Vashdev Pyarelal Valecha .. Debtor.

Ex parte:

M. Parikh & Co. ..Substituted Petitioning Creditor.
And
Laju G. Mahtani ..Supporting Creditor.
...

Mr. Sameer Bhalekar i/b Mr. B.S. Chandnani for the Substituted Petitioning Creditor.
Mr. P.G. Pravin for the Debtor.
Ms. K.S. Lalwani for the Supporting Creditor.
...

CORAM: DR. D.Y. CHANDRACHUD, J.

19th August, 2006.

P.C. :

1. The attention of the Court has been drawn to an order dated 15th July, 2003 passed by a learned Single Judge of this Court (D. G. Karnik, J.) in Summons for Judgment 928 of 2001 in Summary Suit 2229 of 2001 by which unconditional leave to defend the suit came to be granted. In the circumstances, in so far as the Substituted Petitioning Creditor M. Parikh & Co. is

concerned, which is the Plaintiff in the aforesaid Summary Suit, it is evident that the Defendants there who included the Debtor in the present case have been granted unconditional leave to defend.

2. An affidavit for substitution has been filed by a supporting creditor Smt. Laju G. Mahtani who had filed Summary Suit 6280 of 2000 in the City Civil Court at Bombay. On 31st January, 2005 the suit was decreed in the sum of Rs.51,788/- together with future interest at the rate of 12% per annum from the date of the suit. It has been stated that the Debtors have not paid any amount due under the ex parte decree until date. In the circumstances, permission is granted to the Supporting Creditor to stand substituted instead and in place of M. Parikh & Co.

3. Counsel appearing for the Debtor states that the claim of the Substituted Petitioning Creditor in fulfillment of the decretal amount in the aforesaid Summary Suit (Summary Suit 6280 of 2000 before the City Civil Court) shall be paid off within a period of eight weeks from today. Accordingly the Petition is disposed of in terms of the following conditional order :

i) In the event of the Debtor paying the entire decretal dues under the decree passed by the City Civil Court on 31st January, 2005 in Suit 6280 of 2000 within a period of eight weeks from today, the Petition shall stand disposed of. The aforesaid amount shall be paid in two installments. The first installment of Rs.25,000/- shall be paid on or before 30th September, 2006, and the balance together with interest shall be paid on or before 31st October, 2006;

ii) In the event that there is any default in the payment of the aforesaid installments or part thereof, the Petitioning Creditor shall inform the Insolvency Registrar. Upon the commission of any single default, the Petition shall stand absolute in terms of prayer clauses (a) and (b) and the Insolvency Registrar shall take steps in accordance with law.

Amendment to be carried out within a period of two weeks.